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From: Sally Ferrett**To:** Mail Stop Issue Fee**Phone:** (202)404-1551**Fax:** (202) 404-7380**Fax:** (703) 872 9306**Date:** August 13, 2004**Cover Sheet +** 10 **Pages****Message:**

Re: Patent Application No.: 09/788,407

Filed: February 21, 2001

Inventor: Brown et al.

Docket No.: NC 80,124

Please find enclosed:

- (1) An Application for Patent Term Adjustment
- (2) Copies of Patent Term History page and File History Page from PAIR
- (3) A Fee Sheet PTO/SB/17 authorizing the Commissioner to charge fees due to Deposit Account 50-0281.

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OFFICIALPatent
Attorney's Docket No. 80,124**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE****RECEIVED
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AUG 13 2004**

In re Patent Application of)
)
Brown et al.) Group Art Unit: 3637
)
Application No.: 09/788,407) Examiner: A, Phi Dieu Tran
)
Filed: February 21, 2001) Confirmation No.: 5879
)
For: ELONGATED TRUSS BOOM)
STRUCTURES FOR SPACE)
APPLICATIONS)

APPLICATION FOR PATENT TERM ADJUSTMENT

Mail Stop Issue Fee
Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

Sir:

The Notice of Allowance mailed on July 28, 2004 indicates that the above-captioned application is due zero days of Patent Term Adjustment. This is believed to be in error.

Applicants request correction of the Patent Term Adjustment as set forth below.

M.P.E.P. § 2732 and 37 C.F.R. § 1.704(e) provide that submission of a timely application for Patent Term Adjustment will not be considered a failure to engage in reasonable efforts to conclude prosecution (processing or examination) of the application under 37 C.F.R. § 1.704(c)(10). This Submission is not a Rule 1.312 amendment, but rather is an "other paper" required by the USPTO and does not constitute a failure to reasonably conclude prosecution even when filed after a notice of allowance.

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Application for Patent Term Adjustment
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The above-captioned application is not subject to a Terminal Disclaimer.

The accompanying Fee Sheet authorizes the Director to charge the fee due under 37 C.F.R. § 1.18(e) to Deposit Account No. 50-0281.

Statement of Facts and Correct Basis for Adjustment under 37 C.F.R. § 1.702

The Patent Term Adjustment History shown in the PAIR database (copy enclosed) appears to be in error. In particular, there appears to be an error in the 210 day delay assigned to the Applicants on December 1, 2003.

The relevant dates are as follows:

- A Final Rejection was mailed on July 16, 2003.
- Applicants submitted an Amendment After Final Rejection on October 13, 2003.
- An Advisory Action was mailed on October 28, 2003.
- An Interview was conducted on November 7, 2003.
- Applicants submitted an RCE, a Petition for a one-month extension of time, an Amendment, and Formal Drawings on November 13, 2003.
- A Notice of Informal or Non-Responsive Amendment was mailed on November 21, 2004, pointing out that the Claim Listing in the Amendment filed on November 13, 2003 was mis-numbered.
- Applicants submitted a Communication and Supplemental Listing of Claims on December 1, 2003, correcting the errors in the Claim Listing submitted on November 13, 2003.

It is believed that the proper Applicant delay calculation associated with December 1, 2003 is the period from October 16, 2003 (three months after the July 16, 2003 mailing of the Final Rejection) until December 1, 2004 (the date of the Communication and Supplemental

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Listing of Claims), for a total of 48 days. This circumstance is believed to be covered by 37 C.F.R. § 1.704(c)(7), which establishes submission of a reply having an omission (37 CFR 1.135(c)) as a circumstance that constitutes a failure of an applicant to engage in reasonable efforts to conclude processing or examination of an application. As discussed in MPEP § 2732, "Submitting a reply having an omission requires the Office to issue an action under 37 CFR 1.135(c) and await and process the applicant's reply to the action under 37 CFR 1.135(c) before the initial reply (as corrected) can be treated on its merits. In addition, 37 CFR 1.704(c)(7) provides that in such a case the period of adjustment set forth in 37 CFR 1.703 shall be reduced by the number of days, if any, beginning on the day after the date the reply having an omission was filed and ending on the date that the reply or other paper correcting the omission was filed." The Communication and Supplemental Listing of Claims filed on December 1, 2003 corrected the omission contained in the Amendment filed on November 13, 2003. Accordingly, the proper total delay associated with the December 1, 2003 submission should be the already debited 28 day delay between October 16, 2003 and November 13, 2003 plus the 20 day delay between the November 11, 2003 Amendment and the December 1, 2003 Communication and Supplemental Listing of Claims, for a total delay of 48 days.

The total Applicant Delay associated with this patent application should therefore be:

62 days	May 5, 2003	Reply after Non-Final Action
48 days	December 1, 2003	Communication and Supplemental Listing of Claims
<hr/>		
110 days		

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The 110 day Applicant Delay is subtracted from the 127 day Patent Office Delay, resulting in a correct Patent Term Adjustment of 17 days.

Applicants therefore request that the correct Patent Term Adjustment of 17 days be printed on the patent when it issues.

Errors in PAIR database

For clarification, it is also noted that the PAIR Patent Term Adjustment History page indicates that on May 5, 2003, Applicants filed an "Informal or Non-Responsive Amendment after Examine Action." The Amendment filed on May 5, 2003 was submitted in response to the Non Final Rejection mailed on December 4, 2002, and was neither "Informal" nor "Non-Responsive". Subsequent to the filing of the Amendment on May 5, 2003, Applicants did not receive a Notice indicating that the Amendment had any deficiencies. Nor does any such Notice appear in the PAIR database. The Content Description in the Patent Term Adjustment History for May 5, 2003 would more appropriately be shown as: Amendment After Non-Final Rejection.

It is also noted that Applicants submitted a Request for Corrected Office Action on April 9, 2004 in accordance with the procedure set forth at M.P.E.P. 710.06, pointing out that the Office Action mailed on March 11, 2004 did not address several pending claims. This Request for Corrected Office Action does not appear in the PAIR File History page (copy enclosed).

These errors in the PAIR database are not believed to have an effect on the Patent Term Adjustment, however, are listed in this Submission in an abundance of caution.

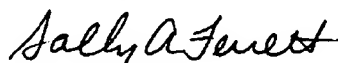
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No Known Circumstances Constituting a "Failure to Engage"

With the exception of the Applicant delays discussed above, Applicants are aware of no circumstances during the prosecution of the application that constitute a failure to engage in reasonable efforts to conclude processing or examination under 37 C.F.R. § 1.704.

Should any questions arise regarding this submission, or regarding the application in general, kindly contact the undersigned at the number listed below.

Respectfully Submitted,



Sally A. Ferrett

Registration No. 46,325

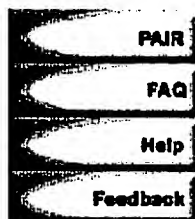
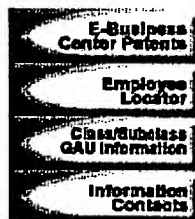
(202) 404-1551

August 13, 2004



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PATENT APPLICATION INFORMATION RETRIEVAL**Other Links**

Printer Friendly Version

Search results as of: 8-12-2004::15

Search results for application number:09/788,407

Application Number:	09/788,407	Customer Number:	26384
Filing or 371(c) Date:	02-21-2001	Status:	Notice of Allowance Mailed Application Received in Off Publications
Application Type:	Utility	Status Date:	08-09-2004
Examiner Name:	A, PHI DIEU TRAN	Location:	ELECTRONIC
Group Art Unit:	3637	Location Date:	-
Confirmation Number:	5879	Earliest Publication No:	US 2002-0112417 A1
Attorney Docket Number:	NC 80,124	Earliest Publication Date:	08-22-2002
Class/ Sub-Class:	052/108	Patent Number:	-
First Named Inventor:	Michael Brown, Columbia, MD	Issue Date of Patent:	-
Title Of Invention:	ELONGATED TRUSS BOOM STRUCTURES FOR SPACE APPLICATIONS		

Select Search Option

☐ Assignments
☐ Continuity Data
☐ Display References
☐ Image File Wrapper
☐ Patent Term Adjustment History
☐ Publication Review

Search

File History

Date	Contents Description
08-09-2004	Receipt Into Pubs
08-07-2004	Workflow - File Sent to Contractor
07-28-2004	Mail Notice of Allowance
07-26-2004	Issue Revision Completed
07-26-2004	Notice of Allowance Data Verification Completed
07-22-2004	Notice of Allowability
05-19-2004	Miscellaneous Incoming Letter
07-07-2004	Date Forwarded to Examiner
06-10-2004	Response after Non-Final Action

06-10-2004	Workflow Incoming amendment IFW
03-11-2004	Mail Non-Final Rejection
03-08-2004	Non-Final Rejection
01-06-2004	Date Forwarded to Examiner
12-01-2003	Response after Non-Final Action
11-21-2003	Mail Notice of Informal or Non-Responsive Amendment
11-13-2003	New or Additional Drawing Filed
11-20-2003	Date Forwarded to Examiner
11-13-2003	Request for Continued Examination (RCE)
11-20-2003	Express Abandonment (for Entry of CPA / RCE / Rule129)
11-13-2003	Request for Extension of Time - Granted
11-13-2003	Workflow - Request for RCE - Begin
11-07-2003	Examiner Interview Summary Record (PTOL - 413)
10-28-2003	Mail Advisory Action (PTOL - 303)
10-28-2003	Advisory Action (PTOL-303)
10-20-2003	Date Forwarded to Examiner
10-08-2003	Amendment after Final Rejection
07-16-2003	Mail Final Rejection (PTOL - 326)
07-14-2003	Final Rejection
05-08-2003	Date Forwarded to Examiner
05-05-2003	Informal or Non-Responsive Amendment after Examiner Action
05-05-2003	Response after Non-Final Action
05-05-2003	Request for Extension of Time - Granted
12-04-2002	Mail Non-Final Rejection
12-02-2002	Non-Final Rejection
09-28-2002	Date Forwarded to Examiner
09-25-2002	Response to Election / Restriction Filed
08-26-2002	Mail Restriction Requirement
08-23-2002	Requirement for Restriction / Election
03-26-2002	Case Docketed to Examiner in GAU
03-26-2002	Case Docketed to Examiner in GAU
03-26-2002	Case Docketed to Examiner in GAU
02-21-2001	Information Disclosure Statement (IDS) Filed
07-31-2001	New or Additional Drawing Filed
10-20-2001	Case Docketed to Examiner in GAU
10-01-2001	Application Dispatched from OIPE
07-18-2001	Application Is Now Complete
05-30-2001	Notice Mailed--Application Incomplete--Filing Date Assigned
05-25-2001	Correspondence Address Change
03-30-2001	IFW Scan & PACR Auto Security Review
02-21-2001	Initial Exam Team nn

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PATENT APPLICATION INFORMATION RETRIEVAL



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Patent Term Adjustment (PTA) for application number: 09/788,407

			Days
Filing or 371(c) Date:	02-21-2001	USPTO Delay (PTO):	127
Issue Date of Patent:	-	Three Years:	-
Pre-Issue Petitions (days):	+0	Applicant Delay (APPL):	300
Post-Issue Petitions (days):	+0	Total PTA:	0
USPTO Adjustment (days):	+0	Explanation of Calculations	

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File History
Image File Wrapper
Publication Review

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Patent Term Adjustment History

Date	Contents Description	PTO (days)	APPL (days)
07-28-2004	Mail Notice of Allowance		
07-26-2004	Issue Revision Completed		
07-26-2004	Notice of Allowance Data Verification Completed		
07-22-2004	Notice of Allowability		
05-19-2004	Miscellaneous Incoming Letter		
07-07-2004	Date Forwarded to Examiner		
06-10-2004	Response after Non-Final Action		
06-10-2004	Workflow incoming amendment IFW		
03-11-2004	Mail Non-Final Rejection		
03-08-2004	Non-Final Rejection		
01-06-2004	Date Forwarded to Examiner		
12-01-2003	Response after Non-Final Action		210
11-21-2003	Mail Notice of Informal or Non-Responsive Amendment		↑
11-13-2003	New or Additional Drawing Filed		↑
11-20-2003	Date Forwarded to Examiner		↑
11-13-2003	Request for Continued Examination (RCE)		28
11-20-2003	Express Abandonment (for Entry of CPA / RCE / Rule129)		↑
11-13-2003	Request for Extension of Time - Granted		↑
11-13-2003	Workflow - Request for RCE - Begin		↑

11-07-2003	Examiner Interview Summary Record (PTOL - 413)		↑
10-28-2003	Mail Advisory Action (PTOL - 303)		↑
10-28-2003	Advisory Action (PTOL-303)		↑
10-20-2003	Date Forwarded to Examiner		↑
10-08-2003	Amendment after Final Rejection		↑
07-16-2003	Mail Final Rejection (PTOL - 326)		↑
07-14-2003	Final Rejection		
05-08-2003	Date Forwarded to Examiner		
05-05-2003	Informal or Non-Responsive Amendment after Examiner Action		
05-05-2003	Response after Non-Final Action	62	
05-05-2003	Request for Extension of Time - Granted		↑
12-04-2002	Mail Non-Final Rejection		↑
12-02-2002	Non-Final Rejection		
09-28-2002	Date Forwarded to Examiner		
09-25-2002	Response to Election / Restriction Filed		
08-26-2002	Mail Restriction Requirement	127	
08-23-2002	Requirement for Restriction / Election	↑	
03-26-2002	Case Docketed to Examiner in GAU	↑	
03-26-2002	Case Docketed to Examiner in GAU	↑	
03-26-2002	Case Docketed to Examiner in GAU	↑	
02-21-2001	Information Disclosure Statement (IDS) Filed	↑	
07-31-2001	New or Additional Drawing Filed	↑	
10-20-2001	Case Docketed to Examiner in GAU	↑	
10-01-2001	Application Dispatched from OIPE	↑	
07-18-2001	Application Is Now Complete	↑	
05-30-2001	Notice Mailed--Application Incomplete--Filing Date Assigned	↑	
05-25-2001	Correspondence Address Change	↑	
03-30-2001	IFW Scan & PACR Auto Security Review	↑	
02-21-2001	Initial Exam Team nn	↑	

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PTO/SB/17 (01-03)

Approved for use through 04/30/2003. OMB 0651-0032
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no Persons are required to respond to a collection of information unless it displays a valid OMB control number.

FEE TRANSMITTAL
for FY 2004

Effective 01/11/2003. Patent fees are subject to annual revision.

☐ Applicant claims small entity status. See 37 CFR 1.27**TOTAL AMOUNT OF PAYMENT** (\$) 200**Complete if Known**

Application Number	09/788,407
Filing Date	February 21, 2001
First Named Inventor	Brown et al.
Examiner Name	A. Phi Dieu Tran
Art Unit	3637
Attorney Docket No.	80,124

METHOD OF PAYMENT (check all that apply)☐ Check ☐ Credit card ☐ Money Order ☐ Other ☐ None☒ Deposit Account:

Deposit Account Number	50-0281
Deposit Account Name	NAVAL RESEARCH LABORATORY

The Commissioner is authorized to: (check all that apply)

☒ Charge fee(s) indicated below ☒ Credit any overpayments☐ Charge any additional fee(s) during the pendency of this application☐ Charge fee(s) indicated below, except for the filing fee to the above-identified deposit account.**FEE CALCULATION****1. BASIC FILING FEE**

Large Entity Fee Code (\$)	Small Entity Fee Code (\$)	Fee Description	Fee Paid
1001 770	2001 375	Utility filing fee	
1002 340	2002 165	Design filing fee	
1003 530	2003 260	Plant filing fee	
1004 770	2004 375	Reissue filing fee	
1005 160	2005 80	Provisional filing fee	
SUBTOTAL (1)			(\$) 0

2. EXTRA CLAIM FEES FOR UTILITY AND REISSUE

Total Claims	Extra Claims below	Fee from	Fee Paid
Independent Claims	-20- =	X	
Multiple Dependent	-3- =	X	

Large Entity Fee Code (\$)	Small Entity Fee Code (\$)	Fee Description
1202 18	2202 9	Claims in excess of 20
1201 86	2201 42	Independent claims in excess of 3
1203 290	2203 140	Multiple dependent claim, if not paid
1204 86	2204 42	Reissue independent claims over original patent
1205 18	2205 9	Reissue claims in excess of 20 and over original patent

SUBTOTAL (2) (\$) 0

* or number previously paid, if greater; For Reissues, see above

FEE CALCULATION (continued)**3. ADDITIONAL FEES**

Large Entity Small Entity

Fee Code (\$)	Fee Code (\$)	Fee Description	Fee Paid
1051 130	2051 65	Surcharge - late filing fee or oath	
1052 50	2052 25	Surcharge - late provisional filing fee or cover sheet	
1053 130	1053 130	Non-English specification	
1812 2,520	1812 2,520	For filing a request for ex parte reexamination	
1804 920*	1804 920*	Requesting publication of SIR prior to Examiner action	
1805 1,840*	1805 1,840*	Requesting publication of SIR after Examiner action	
1251 110	2251 55	Extension for reply within first month	
1252 420	2252 205	Extension for reply within second month	
1253 950	2253 465	Extension for reply within third month	
1254 1480	2254 725	Extension for reply within fourth month	
1255 2010	2255 985	Extension for reply within fifth month	
1401 330	2401 160	Notice of Appeal	
1402 330	2402 160	Filing a brief in support of an appeal	
1403 290	2403 140	Request for oral hearing	
1451 1,510	1451 1,510	Petition to institute a public use proceeding	
1452 110	2452 55	Petition to revive - unavoidable	
1453 1,330	2453 650	Petition to revive - unintentional	
1501 1,330	2501 650	Utility issue fee (or reissue)	
1502 480	2502 235	Design issue fee	
1503 640	2503 315	Plant issue fee	
1460 130	1460 130	Petitions to the Commissioner	
1807 50	1807 50	Processing fee under 37 CFR 1.17(q)	
1808 180	1808 180	Submission of information Disclosure Stmt	
8021 40	8021 40	Recording each patent assignment per property (times number of properties)	
1809 770	2809 375	Filing a submission after final rejection (37 CFR 1.129(a))	
1810 770	2810 375	For each additional invention to be examined (37 CFR 1.129(b))	
1801 770	2801 375	Request for Continued Examination (RCE)	
1802 900	1802 900	Request for expedited examination of a design application	
Other fee (specify) 37 CFR 1.18 (e)			200.00

* Reduced by Basic Filing Fee Paid

SUBTOTAL (3) (\$) 200**SUBMITTED BY**

(Complete if applicable)

Name (Print/Type)	Sally A. Ferrett	Registration No. (Attorney/Agent)	46,325	Telephone	(202) 404-1551
Signature		Date			

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This collection of information is required by 37 CFR 1.17 and 1.27. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, Washington, DC 20231.

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